

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EOLAS TECHNOLOGIES
INCORPORATED,

Plaintiff,

v.

WAL-MART STORES, INC.,
WAL-MART STORES TEXAS, LLC,

Defendants.

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CIVIL ACTION NO. 6:15-CV-01040-RWS

ORDER

On September 29, 2016, the Court denied Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores Texas, LLC's ("the Wal-Mart parties") Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a). Docket No. 35. Currently before the Court is Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores Texas's Emergency Motion for Reconsideration of Order Denying Walmart's Motion to Transfer (Docket No. 39). The Court held a hearing on the motion on April 4, 2017. After the hearing, the Court ordered the parties to submit additional briefing regarding whether the Court should sever Plaintiff's claims against Wal-Mart Stores Texas in the event the claims against Wal-Mart Stores, Inc. are transferred. Docket No. 49.

In its brief, the Wal-Mart parties ask the court to reconsider its September Order based on the Federal Circuit's reasoning in *In re Google Inc.*, Case No. 17-107 (Fed. Cir. Feb. 23, 2017). Docket No. 39 at 4–5. Particularly, the Wal-Mart parties argue that their ties to the Northern District of California mirror those of Google. *Id.* at 5.

Given the unique circumstances present in this case, the Court finds it appropriate to reconsider its order denying transfer with respect to Wal-Mart Stores, Inc. (Docket No. 35). However, because “the Northern District of California would not have personal jurisdiction over [Wal-Mart Stores Texas],” the Court does not reconsider its order denying transfer with respect to Wal-Mart Stores Texas. Docket No. 35 at 4.

Upon consideration of each of the applicable public and private factors related to a transfer pursuant to 28 U.S.C. § 1404(a), the Court finds that, under the specific circumstances of this case, a majority of these factors weigh in favor of transfer of the claims against Wal-Mart Stores, Inc. Wal-Mart Stores, Inc.’s ties to the Northern District of California outweigh the ties that the parties have to this District. Consequently, the Northern District of California is a clearly more convenient venue than this District for Wal-Mart Stores, Inc.


After careful consideration of the parties’ arguments and written submissions, the Court **ORDERS** that all claims asserted by Plaintiff Eolas Technologies Inc. against Defendant Wal-Mart Stores Texas, LLC are hereby **SEVERED** from the above-captioned action into a new cause of action. The filing fee for the severed cause of action against Wal-Mart Stores Texas is waived.

The above-captioned action against Wal-Mart Stores, Inc. is hereby **TRANSFERRED** to the United States District Court for the Northern District of California. Given the approaching deadlines under this Court’s current docket control order, all deadlines in the above-numbered action against Wal-Mart Stores, Inc. are **STAYED** until the case is received and reassigned by the clerk of the Northern District of California and until further order of that Court.

The Court further **ORDERS** that the severed action against Wal-Mart Stores Texas is hereby **STAYED** pending resolution of the transferred claims. The parties shall file a joint status

report within **seven (7) days** of the entry of final judgment (or other resolution of the transferred claims) in the Northern District of California.

So ORDERED and SIGNED this 28th day of April, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE